

## 217.7404-5

### 217.7404-5 Exceptions.

(a) The limitations in 217.7404-2, 217.7404-3, and 217.7404-4 do not apply to UCAs for the purchase of initial spares.

(b) The head of an agency may waive the limitations in 217.7404-2, 217.7404-3, and 217.7404-4 for UCAs if the head of the agency determines that the waiver is necessary to support—

- (1) A contingency operation; or
- (2) A humanitarian or peacekeeping operation.

[60 FR 29498, June 5, 1995, as amended at 63 FR 67804, Dec. 9, 1998; 71 FR 27643, May 12, 2006]

### 217.7404-6 Allowable profit.

When the final price of a UCA is negotiated after a substantial portion of the required performance has been completed, the head of the contracting activity shall ensure the profit allowed reflects—

(a) Any reduced cost risk to the contractor for costs incurred during contract performance before negotiation of the final price;

(b) The contractor's reduced cost risk for costs incurred during performance of the remainder of the contract; and

(c) The requirements at 215.404-71-3(d)(2). The risk assessment shall be documented in the contract file.

[74 FR 37650, July 29, 2009]

### 217.7405 Plans and reports.

(a) To provide for enhanced management and oversight of UCAs, departments and agencies shall—

(1) Prepare and maintain a Consolidated UCA Management Plan; and

(2) Prepare semi-annual Consolidated UCA Management Reports addressing each UCA with an estimated value exceeding \$5 million.

(b) Consolidated UCA Management Reports and Consolidated UCA Management Plan updates shall be submitted to the Office of the Director, Defense Procurement and Acquisition Policy, by October 31 and April 30 of each year in accordance with the procedures at PGI 217.7405.

(c) Consolidated UCA Management Reports shall include information about all change orders that are not forward priced (*i.e.*, unpriced) and have

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an estimated value exceeding \$5 million.

[74 FR 37650, July 29, 2009, as amended at 75 FR 48277, Aug. 10, 2010]

### 217.7406 Contract clauses.

(a) Use the clause at FAR 52.216-24, Limitation of Government Liability, in—

- (1) All UCAs;
- (2) Solicitations associated with UCAs;
- (3) Basic ordering agreements;
- (4) Indefinite-delivery contracts;
- (5) Any other type of contract providing for the use of UCAs; and
- (6) Unpriced change orders with an estimated value exceeding \$5 million.

(b)(1) Use the clause at 252.217-7027, Contract Definitization, in—

- (i) All UCAs;
- (ii) Solicitations associated with UCAs;
- (iii) Basic ordering agreements;
- (iv) Indefinite-delivery contracts;
- (v) Any other type of contract providing for the use of UCAs; and
- (vi) Unpriced change orders with an estimated value exceeding \$5 million.

(2) Insert the applicable information in paragraphs (a), (b), and (d) of the clause.

(3) If, at the time of entering into the UCA or unpriced change order, the contracting officer knows that the definitive contract action will meet the criteria of FAR 15.403-1, 15.403-2, or 15.403-3 for not requiring submission of cost or pricing data, the words “and cost or pricing data” may be deleted from paragraph (a) of the clause.

[75 FR 48277, Aug. 10, 2010]

## Subpart 217.75—Acquisition of Replenishment Parts

### 217.7500 Scope of subpart.

This subpart provides guidance on additional requirements related to acquisition of replenishment parts.

[56 FR 36345, July 31, 1991, as amended at 71 FR 27643, May 12, 2006]

### 217.7501 Definition.

*Replenishment parts*, as used in this subpart, means repairable or